

FCC MAIL SECTION

Federal Communications Commission

DA 97-1087

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**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

DISPATCHED BY

In the Matter of	)	
	)	CC Docket No. 97-139
Southwestern Bell Telephone Company	)	
	)	Transmittal No. 2622
Tariff F.C.C. No. 73	)	
	)	
	)	

**ORDER DESIGNATING ISSUES  
FOR INVESTIGATION**

Adopted: May 23, 1997: Released: May 23, 1997

Filing Schedule:

Direct Case:	June 9, 1997
Oppositions/Comments:	June 16, 1997
Rebuttal:	June 23, 1997

By the Deputy Chief, Common Carrier Bureau:

**I. INTRODUCTION**

1. On March 25, 1997, Southwestern Bell Telephone Company (SWBT) filed Transmittal No. 2622, which proposed to establish a new promotion for SWBT's High Capacity Term Pricing Plan (HC-TPP)<sup>1</sup> for special access services. SWBT Transmittal No. 2622 would waive in certain circumstances the applicable monthly recurring charge (MRC) for every sixth month during the term of the offering for customers who switch from a competitive access provider (CAP) to SWBT during a designated three-month period.<sup>2</sup> SWBT's transmittal would require that, during the three-month promotional period, the customer must disconnect from its present CAP service, order installation of a comparable service from SWBT, and verify the disconnection with SWBT. The transmittal would permit

<sup>1</sup> SWBT Access Tariff FCC No. 73, Transmittal No. 2622 (March 25, 1997) (Transmittal No. 2622).

<sup>2</sup> Specifically, for customers switching from a CAP to SWBT between April 9 and July 9, 1997, the transmittal would have waived certain monthly charges for every sixth month of the plan after the customer reached a minimum monthly revenue commitment. The charges to be waived included those for the following services: High Capacity Channel Termination, Channel Mileage (Fixed and Per Mile), Multiplexing, and SecureNet options for Missouri. Customers could choose either a three year or a five year plan.

customers to choose a three-year or five-year term,<sup>3</sup> and would be offered throughout the SWBT service area. On April 1, 1997, AT&T Corp. (AT&T), MCI Communications Corporation (MCI), and Teleport Communications Group Inc. (TCG) filed oppositions urging the Commission to reject or, alternatively, to suspend and investigate SWBT's Transmittal No. 2622.<sup>4</sup> On April 7, SWBT filed a response.<sup>5</sup> On April 8, 1997, the Common Carrier Bureau (Bureau) released the *SWBT Tariff Suspension Order*, in which it concluded SWBT's transmittal raised significant issues of lawfulness.<sup>6</sup> The Bureau suspended SWBT's Transmittal No. 2622 for five months, imposed an accounting order, and noted that an order designating issues for investigation would be forthcoming. Accordingly, in this Order, we designate issues for investigation regarding SWBT's Transmittal No. 2622.

## II. PLEADINGS

### A. SWBT's Petition

2. SWBT contends that Commission orders recognize the "competitive necessity" doctrine as a justification for discriminatory pricing of LECs' access services and, thus, that Transmittal No. 2622's differential treatment of customers is lawful.<sup>7</sup> SWBT notes that the Commission's competitive necessity test requires the offering carrier to prove that: (1) the customers of the discounted offering have an equal or lower priced competitive alternative from which to choose; (2) the discounted offering responds to competition without undue discrimination; and (3) the discount contributes to reasonable rates and efficient services for

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<sup>3</sup> The term may be renewed or extended, but the MRC would be waived only for the first month of the renewal or extension period.

<sup>4</sup> Petition of AT&T Corp. to Reject or, In the Alternative, to Suspend and Investigate, Proposed Tariff Revisions in Southwestern Bell Telephone Company Transmittal No. 2622 (AT&T Petition); MCI Petition to Reject or, Alternatively Suspend and Investigate (MCI Petition); Teleport Communications Group Inc.'s (TCG) Petition to Reject (TCG Petition).

<sup>5</sup> Reply of Southwestern Bell Telephone Company to Petitions to Reject (SWBT Reply).

<sup>6</sup> Southwestern Bell Telephone Company, Tariff F.C.C. No. 73, Transmittal No. 2622, DA 97-696 (Com. Car. Bur. 1997)(*SWBT Tariff Suspension Order*).

<sup>7</sup> See Transmittal 2622 at Section 1.2 (arguing that Commission has recognized competitive necessity as a justification for individual case basis (ICB) pricing and citing Local Exchange Carriers Individual Case Basis DS-3 Service Offerings, 4 FCC Rcd 8634, 8643 (1989) (*DS-3 ICB Order*)). See also Transmittal 2622 at Section 1.2 (arguing that Commission has recently "'assumed' that the competitive necessity guidelines may be applied to the access services of LECs" and citing Southwestern Bell Telephone Company, Tariff FCC No. 73, Transmittals Nos. 2433 and 2449, Order Terminating Investigation, 11 FCC Rcd 1215, 1220 (1995)(*Transmittals Nos. 2433 and 2449*), remanded, *Southwestern Bell Tel. Co. v. FCC*, 100 F.3d 1004 (D.C. Cir. 1996).

all users.<sup>8</sup> In support of its claim, SWBT cites a market study that, it argues, demonstrates competition for special access customers in SWBT's local access market.<sup>9</sup> In view of alleged losses to competitors, SWBT asserts it must respond with a special promotion to attract customers back from CAPs.<sup>10</sup> SWBT argues that, because it satisfies the Commission's competitive necessity test, it may offer this promotion without seeking a waiver of the DS-3 ICB Order's requirement that LECs file averaged rates for their DS-3 offerings.<sup>11</sup>

3. According to SWBT, Transmittal No. 2622 satisfies the first of the three prongs of the Commission's competitive necessity test because SWBT requires that the customer verify the disconnection of a comparable service provided by a CAP.<sup>12</sup> SWBT then asserts that the transmittal satisfies the second prong because the promotion is available to all "similarly situated" customers.<sup>13</sup> SWBT defines "similarly situated customer" as those customers that can provide "required evidence of competition," *i.e.*, evidence that they have disconnected service from a CAP.<sup>14</sup> Finally, SWBT argues that the transmittal satisfies the third prong because the promotion is intended to retain business on SWBT's network, resulting in additional revenue that will contribute to overall reasonable rates and efficient services for all users.<sup>15</sup>

### B. Opposition Petitions

4. AT&T, MCI, and TCG argue that Transmittal No. 2622 is unreasonably discriminatory, that it is not in the public interest, and that SWBT has failed to demonstrate that its proposed offering satisfies the Commission's competitive necessity test.<sup>16</sup> As an initial matter, AT&T and MCI question whether the competitive necessity defense applies to

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<sup>8</sup> Transmittal 2622 at Section 1.2. See Private Line Rate Structure and Volume Discount Practices Guidelines, Report and Order, CC Docket No. 79-246, 97 FCC 2d 923, 948 (1984)(*Private Line Rate Structure Guidelines*).

<sup>9</sup> SWBT also submitted brochures advertising CAP access service.

<sup>10</sup> Transmittal 2622 at Section 1.1.

<sup>11</sup> *Id.* at Section 1.2 (citing DS-3 ICB Order, 4 FCC Rcd at 8644).

<sup>12</sup> Transmittal 2622 at Section 1.5.

<sup>13</sup> *Id.*

<sup>14</sup> *Id.*

<sup>15</sup> *Id.*

<sup>16</sup> AT&T Petition at 1-2, 5-7; MCI Petition at 6-7; TCG Petition at 2-4.

dominant LECs.<sup>17</sup> AT&T and MCI argue SWBT has failed to show that the specific discounts contained in Transmittal 2622 respond to any equally or lower priced offering from a CAP, as required by the competitive necessity defense.<sup>18</sup> TCG asserts SWBT's transmittal would not contribute to reasonable rates and efficient services for all users, as required by the third prong of the test, because SWBT's offer is not limited to business it has lost or is threatened to lose, and because SWBT would recover substantial costs of connecting former CAP customers from other customers.<sup>19</sup>

5. AT&T asserts the transmittal violates section 69.3(e)(7) of the Commission's rules, which prohibits geographic deaveraging and disaggregation.<sup>20</sup> MCI also argues that the transmittal language is unlawfully vague in violation of sections 61.2 and 61.54(j) of the Commission's rules.<sup>21</sup> MCI and TCG both contend that the transmittal should be rejected because it would require the Commission to resolve issues that are pending in the *Access Reform Notice of Proposed Rulemaking*,<sup>22</sup> and because the streamlined tariff process, which offers parties less opportunity to build an extensive record, is the incorrect forum for resolving these issues.<sup>23</sup>

### C. SWBT's Reply

6. To counter its opponents' claims that Transmittal 2622 does not respond to equally or lower priced access service offerings available from CAPs, SWBT submits documentary evidence that, it contends, demonstrates that competitors are offering comparable special access services at similar prices in its market.<sup>24</sup> SWBT contends further that, although similar issues may be pending in the *Access Reform* docket, this should not preclude or delay

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<sup>17</sup> AT&T Petition at 5; MCI Petition at 7.

<sup>18</sup> AT&T Petition at 2; MCI Petition at 7-8.

<sup>19</sup> TCG Petition at 2.

<sup>20</sup> AT&T Petition at 4.

<sup>21</sup> MCI Petition at 3-5.

<sup>22</sup> In the Matter of Access Charge Reform, Notice of Proposed Rulemaking and Third Report and Order, FCC No. 96-488, CC Docket No. 96-262 (rel. Dec. 24, 1996) ("*Access Reform NPRM*"). After the pleading cycle in this proceeding closed, the Commission adopted a First Report and Order in the *Access Reform* proceeding. See In the Matter of Access Charge Reform, First Report and Order, FCC No. 97-158, CC Docket No. 96-262 (rel. May 16, 1997) ("*Access Reform First Report and Order*").

<sup>23</sup> MCI Petition at 7; TCG Petition at 3.

<sup>24</sup> SWBT Reply at 3.

relief to which SWBT otherwise is entitled, and that the Commission may not avoid deciding a legal question properly brought before it.<sup>25</sup>

### III. ISSUES DESIGNATED FOR INVESTIGATION

7. In the *SWBT Suspension Order*, the Bureau concluded Transmittal 2622 raised significant questions of lawfulness, including whether it is unreasonably discriminatory in violation of Section 202(a) of the Communications Act, and whether it contains any unjust and unreasonable charge, practice, classification, or regulation in violation of Section 201(b) of the Act. As set forth below, we now designate in greater detail issues regarding SWBT's rate structure and terms and conditions for access service outlined in Transmittal 2622.

#### **Issue A: Whether Transmittal 2622 violates Section 201(b)'s prohibition against any unjust and unreasonable charge, practice, classification, or regulation**

8. The Commission has determined that it is unjust and unreasonable in violation of section 201(b) of the Communications Act for an incumbent LEC to engage in practices that will deprive customers of the benefits of efficient competition in the market for interstate access services.<sup>26</sup> The Commission applied this principle in the *Expanded Interconnection Second Order on Reconsideration*, by enacting certain safeguards to ensure that incumbent LECs and CAPs can compete fairly for interstate access customers.<sup>27</sup> In that Order the Commission required that incumbent LECs apply reconfiguration nonrecurring charges (NRCs) in a neutral manner. The Commission explicitly prohibited incumbent LECs from imposing reconfiguration NRCs on customers that change their interstate transport service from an incumbent LEC to a CAP, while waiving the same NRCs for customers that elect to reconfigure the transport service they obtain from the incumbent LEC, unless there are specific, identifiable cost differences.<sup>28</sup> This prohibition followed the Commission's previous finding that, absent a cost justification, such differences in the imposition of reconfiguration NRCs could constitute a serious barrier to competitive entry.<sup>29</sup> The Commission also struck down contract termination charges above certain levels on grounds

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<sup>25</sup> SWBT Reply at 5 (citing *AT&T v. FCC*, 978 F.2d 727 (D.C. Cir. 1992)).

<sup>26</sup> Expanded Interconnection with Local Telephone Company Facilities, Report and Order and Notice of Proposed Rulemaking, 7 FCC Rcd 7369, 7465 (1992) ("*Expanded Interconnection Order*").

<sup>27</sup> Expanded Interconnection with Local Telephone Company Facilities, CC Docket No. 91-141, Second Order on Reconsideration, 8 FCC Rcd 7341, 7361-63 (1993) ("*Expanded Interconnection Second Order on Reconsideration*").

<sup>28</sup> *Id.* at 7362.

<sup>29</sup> *Expanded Interconnection Order* at 7465.

that such charges would prevent customers from switching carriers, and thereby "lock up" the market for interstate access services.<sup>30</sup> The Commission held that assessing such charges would deprive customers of the benefits of competition and would be unjust and unreasonable, in violation of the Communications Act.<sup>31</sup>

9. Transmittal 2622 raises issues similar to those that underlie the Commission's reconfiguration NRC policy. That policy reflects the Commission's concern that CAPs may not be able to compete efficiently with incumbent LECs if the incumbents are permitted to forego imposing NRCs on customers who replace interconnector-provided access service with access services provided by incumbent LECs (or reconfigure their incumbent LEC access service), but still impose NRCs on customers who replace incumbent LEC-provided access service with interconnector-provided access services. Transmittal No. 2622 raises similar issues: it would waive many of the underlying term service's monthly charges every six months only for customers who choose to switch from an interconnector to SWBT. Permitting SWBT to target selectively for discounted offerings current CAP customers at an early stage in the development of a competitive market for access could threaten the viability of CAPs in the short term and deprive customers of the long term benefits brought about by the vigorous competition that CAPs eventually could provide to SWBT. On the other hand, while the NRC policy prevented incumbent LECs from penalizing customers who disconnected the incumbent LEC's service, SWBT's promotion offers a reward to customers who switch to SWBT, an incentive that a CAP could match. We thus seek comment on whether the proposal is more accurately viewed as a reasonable competitive response to specific CAP offerings or, alternatively, as a preemptive measure that in the long run will only dampen competition and strengthen SWBT's already dominant market position. We note that the Commission has tentatively concluded in the *Access Reform NPRM* that incumbent LECs should be able to offer contract tariffs or respond to individual requests for proposals only after a certain threshold of competition has been reached.<sup>32</sup> We ask parties to address whether that tentative conclusion is relevant and, if so, what level of competition should be required before SWBT may offer a competitive response tariff such as that at issue here, and whether SWBT has demonstrated that sufficient competition exists in this case. In light of the Commission's commitment to ensure that interconnectors have the opportunity to provide efficient competition, we require SWBT to explain why Transmittal No. 2622 would not result in unjust and unreasonable charges, practices, or classifications, contrary to the public interest and in violation of section 201(b). We also seek comment from other parties on this

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<sup>30</sup> *Id.* at 7465 n. 468.

<sup>31</sup> *Id.*

<sup>32</sup> *Access Reform NPRM*, FCC No. 96-488 at paras. 193-196. In the *Access Reform First Report and Order*, the Commission committed to resolve the issues of timing and degree of pricing flexibility in detail in a subsequent report and order in the access reform docket. *Access Reform First Report and Order* at para. 260.

issue.

**Issue B: Whether Transmittal 2622 violates section 202(a)'s prohibition against unjust and unreasonable discrimination**

10. Section 202(a) of the Act prohibits unjust or unreasonable discrimination in charges, practices, classifications and services by common carriers in connection with any "like" communications service.<sup>33</sup> In examining whether Transmittal No. 2622 is unreasonably discriminatory, we must determine: (1) whether the services at issue are "like" communications services, which is based on whether they are the "functional equivalent" of each other; (2) whether there is a difference in charges or treatment; and (3) whether the difference is reasonable.<sup>34</sup> Transmittal No. 2622 makes a promotional discount available to one class of new HC-TPP customers -- those currently served by a CAP -- but fails to make the discount available to any other new HC-TPP customers, and thus may unreasonably discriminate against these customers.<sup>35</sup> The services at issue appear to be "like," if not identical, services. To the extent that SWBT or any other party believes that the HC-TPP service offered to new customers converting from CAP service is not "like" the HC-TPP service offered to other new customers, we require them to explain their position. Assuming these are "like" communications services, we require SWBT to explain whether the difference in the charges imposed on new customers who are not eligible for the promotion because they are not currently customers of CAPs is reasonable. We also invite other parties to comment on this issue.

11. SWBT's primary argument is that any discriminatory pricing that may exist under Transmittal 2622 is justified by "competitive necessity." It is not clear, however, from Commission precedent that this defense to discriminatory pricing is available to SWBT. Although the Commission has recognized competitive necessity as a defense to a claim under section 202(a) of the Act that a dominant interexchange carrier has engaged in unreasonable discrimination, the Commission has not determined whether competitive necessity is available as a defense to discrimination allegations against dominant LECs.<sup>36</sup> We require SWBT to

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<sup>33</sup> 47 U.S.C. § 202(a).

<sup>34</sup> See, e.g., *Competitive Telecommunications Ass'n v. FCC*, 998 F.2d 1058, 1061 (D.C. Cir. 1993); *MCI Telecommunications Corp. v. FCC*, 917 F.2d 30, 39 (D.C. Cir. 1990).

<sup>35</sup> No party argues that the promotional nature of this transmittal's offering raises an issue of unreasonable discrimination, and we do not raise it in this investigation.

<sup>36</sup> SWBT cites *Transmittals Nos. 2433 and 2449* for the proposition that the Commission has "assumed" that the competitive necessity defense would apply to dominant LECs. Transmittal 2622, Justification, Section 1.2. Contrary to SWBT's assertion, however, the Commission specifically stated it was not deciding that the competitive necessity defense applied to dominant LECs. Instead, it stated, assuming for the sake of argument

explain why competitive necessity should be a defense to discrimination available to dominant LECs. We note that the competitive necessity defense was developed to permit AT&T to respond to competition in the interexchange market.<sup>37</sup> We require SWBT to explain how the interstate access market conditions are similar to the market conditions that existed in the interexchange market when competitive necessity was available to AT&T as a dominant carrier.

12. We also direct parties to address, assuming the competitive necessity defense is available, whether the current form of the competitive necessity defense should be applied to incumbent LECs in the circumstances at issue, or whether it should be modified in any way. We note that SWBT has urged us, citing *Southwestern Bell Tel. Co. v. FCC*,<sup>38</sup> to be careful not to craft a test that, as a practical matter, a carrier will be unable to satisfy. SWBT has argued that it would be difficult, if not impossible, to determine its competitors' prices for purposes of satisfying the first prong of the test, because CAPs may adjust their rates on one day's notice.<sup>39</sup> We ask parties, first, to address whether we are required to craft a competitive necessity defense that is available in all circumstances, or whether we could reasonably find that the competitive necessity defense is not available in all circumstances. As noted above, the Commission has tentatively concluded in the *Access Reform NPRM* that incumbent LECs should be able to offer contract tariffs or respond to individual requests for proposals only after a certain threshold of competition has been reached.<sup>40</sup> Again, we ask parties to address whether that tentative conclusion is relevant to competitive necessity considerations and, if so, what level of competition should be required before SWBT may respond to competitors' offers based on competitive necessity, and whether SWBT has demonstrated that sufficient competition exists for us to permit SWBT to offer its promotion on competitive necessity grounds here. We also specifically require SWBT to explain whether the competitive necessity defense should include consideration of the possible anti-competitive effects that may result from Transmittal 2622's price discrimination. In addition, we seek comment from

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that the defense applied, SWBT had failed to satisfy the test. *Transmittals Nos. 2433 and 2449*, 11 FCC Red at 1220.

<sup>37</sup> See, e.g., AT&T Communications Tariff F.C.C. No. 15 Competitive Pricing Plans, 4 FCC Red 7933 (1989)(*AT&T CPP Order*).

<sup>38</sup> 100 F.3d 1004 (D.C. Cir. 1996). See *supra* note 7. In *Southwestern Bell Tel. Co. v. FCC*, the Court of Appeals held that the first prong of the competitive necessity defense presented proof problems because it forced the dominant carrier either to lose a competitive bid or to commit an antitrust violation to learn its competitors' prices. *Id.* at 1007. However, because this case does not involve competitive bidding, SWBT would not face similar problems here.

<sup>39</sup> Transmittal 2622 at Section 1.3.

<sup>40</sup> *Access Reform NPRM*, FCC No. 96-488 at paras. 193-196.



other parties on this issue.<sup>41</sup>

13. Further, we seek comment on the scope of the competitive necessity defense. We direct SWBT to explain whether a successful defense of competitive necessity would excuse conduct that constitutes an unreasonable practice or leads to unjust or unreasonable charges in violation of section 201(b), or whether competitive necessity is a defense only to claims of price discrimination under section 202(a). We also seek comment from other parties on this issue.

14. Moreover, we require SWBT to provide further explanation on how it has satisfied each prong of the current test for competitive necessity. The first prong of this test requires a carrier to prove that an equally or lower priced competitive alternative is generally available to customers of the discounted offering.<sup>42</sup> We ask parties to address what types of evidence would be sufficient to establish the first prong of the test in the circumstances here. In its Reply, SWBT provided evidence of lower priced competitive alternatives by submitting relevant pages from the tariffs of SWBT, Teleport, and Time Warner in zone 1 in Texas. These tariff pages presented SWBT's charges for special access channel terminations and charges for what appear to be comparable services offered by Time Warner and Teleport. SWBT also submitted two letters purportedly from access service consumers stating CAPs are able to provide lower prices than SWBT in that area. Is that sufficient evidence to satisfy the first prong in zone 1 in Texas, or in zone 1 areas throughout SWBT's region, or throughout its service area? Does SWBT need to provide a description of each competitor's service and to explain why this service is a competitive alternative to SWBT's HC-TPP services?

15. We also seek further information from all parties regarding whether SWBT's transmittal meets the second prong of the test, which requires that the discounted offering respond to competition without undue discrimination.<sup>43</sup> The Commission has held that this prong permits a dominant carrier only to offer to match its competitor's offer, and that any discrimination that extends beyond that contained in the competitor's original offer is

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<sup>41</sup> MCI and TCG urge us to consider these issues in our *Access Reform* proceeding, and not in this tariff investigation, while SWBT responds that we may not refuse to address a legal issue properly raised. Because the issues set out in paragraphs 11 through 13 above are of significance beyond the parties to this proceeding, we invite interested persons to intervene or file non-party briefs on these issues. See *AT&T v. FCC*, 978 F.2d at 732 (authorizing interested persons to file intervene or file briefs as non-parties where issues contain significance to parties outside a proceeding).

<sup>42</sup> *Private Line Rate Structure Guidelines*, 97 FCC 2d at 948.

<sup>43</sup> *Id.*

undue.<sup>44</sup> SWBT argues Transmittal 2622 satisfies this prong because the promotion is available to all similarly situated customers, which SWBT defines as those currently served by a CAP. Parties should address whether this limited availability renders Transmittal 2622 a reasonable response to the competition that SWBT alleges exists.

16. The third element of the competitive necessity defense considers whether the discount contributes to reasonable rates and efficient services for all users.<sup>45</sup> TCG contends SWBT cannot satisfy this element because the additional cost of installing new equipment to serve customers won from CAPs will necessitate rate increases for other SWBT customers. SWBT counters that access charges paid by customers currently served by CAPs will contribute to the recovery of SWBT's overhead costs, thereby satisfying this prong. To determine whether, as a factual matter, SWBT meets its own articulation of the third prong, we require SWBT to demonstrate that its prices for HC-TPPs recover the direct costs of providing these services with the promotion offered by SWBT in Transmittal No. 2622.<sup>46</sup> By examining SWBT's direct costs, we will be able to evaluate SWBT's claim that the promotional rates for the three- and five-year HC-TPP services contribute to the recovery of SWBT's overhead costs.

17. *Direct Cost Showing.* We require SWBT to submit tariff review plan (TRP) charts displaying unit investments, direct costs, and prices for each three- and five-year HC-TPP service that it offers. The TRP charts must comply with the format developed in Appendix A of this Order. Appendix A of this Order includes precise instructions for completing these TRP charts.

18. We require SWBT to file a copy of all cost studies on which its unit investments, direct costs, and prices for these HC-TPP services are based. SWBT also must fully document and completely explain the data, assumptions, and the methodologies on which all unit investments, direct capital costs, and direct operating expenses for its HC-TPP services are based. SWBT must submit, as part of this documentation, worksheets showing the data and calculations that underlie these costs. In addition, SWBT must fully explain and

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<sup>44</sup> *AT&T CPP Order*, 4 FCC Rcd at 7934.

<sup>45</sup> *Id.*

<sup>46</sup> Regulated rates recover two types of costs: (1) direct costs; and (2) overhead costs. Direct costs of providing a service include capital costs (*i.e.*, depreciation, cost of money, and income taxes) and operating costs (*i.e.*, maintenance costs, administrative costs, and property and other taxes that are not income taxes) that are attributable to a particular service. Overhead costs are joint and common costs that are not directly attributable to any particular service. Most LECs, including SWBT, develop direct costs using long run incremental unit cost methodologies. *See* SWBT Direct Case filed in CC Docket No. 93-162, Local Exchange Carriers' Rates, Terms, and Conditions for Expanded Interconnection for Special Access, Appendix 2 at 2. These direct costs are based on the principle of direct cost causation and are prospective.

justify its annual cost factors. SWBT must explain whether the investments on which its HC-TPP service direct costs are based are calculated on a prospective basis, on a historical basis, or on some other basis, and it must justify the approach it uses to develop these costs.

19. SWBT also must indicate the percentage cost of capital or money used in developing its direct costs. This percentage cost of capital must be fully explained and justified. Such justification must fully document and explain the data, assumptions, and methodologies on which the cost of debt, cost of equity, and capital structure are based. In addition, SWBT must justify the depreciable lives for plant and equipment listed on its TRP charts.

20. We also require SWBT to describe each labor function for which costs are recovered in HC-TPP service rates, provide the estimated number of hours required to perform these functions, provide the estimated labor cost for these functions, and fully explain and document the data, assumptions, and the methodologies by which these labor hours and costs are estimated. SWBT must describe whether the estimated labor costs reflect only wages, wages plus benefits, wages plus benefits and loadings, or whether these costs are estimated on some other basis. If loadings are included in labor costs, SWBT must describe what portion of the reported wage rate is attributable to loadings.

21. Finally, we require SWBT to provide a diagram clearly identifying each HC-TPP service component.

#### **IV. PROCEDURAL MATTERS**

##### **A. Filing Schedules**

22. This investigation will be conducted as a notice and comment proceeding to which the procedures set forth below shall apply. SWBT shall file a direct case addressing each issue designated above no later than 15 days after the release of this Order.

23. Pleadings responding to SWBT's direct case may be filed no later than 7 days after filing the direct case and must be captioned "Opposition to Direct Case" or "Comments on SWBT's Direct Case." SWBT may file a "Rebuttal" to oppositions or comments no later than 7 days after the filing of comments on or oppositions to the direct cases.

24. An original and seven copies of all pleadings must be filed with the Secretary of the Commission. In addition, one copy must be delivered to the Commission's commercial copying firm, International Transcription Service, Room 246, 1919 M Street, N.W., Washington, D.C. 20554. Also, one copy must be delivered to the Competitive Pricing Division, Room 518, 1919 M Street, N.W., Washington, D.C. 20554. Members of the general public who wish to express their views in an informal manner regarding the issues in this

investigation may do so by submitting one copy of their comments to the Secretary, Federal Communications Commission, 1919 M Street, N.W., Room 222, Washington, D.C. 20554. Such comments should specify the docket number of this investigation.

**B. *Ex Parte* Requirements**

25. *Ex Parte* contacts, (i.e., written or oral communications that address the procedural or substantive merits of the proceeding which are directed to any member, officer, or employee of the Commission who may reasonably be expected to be involved in the decisional process in this proceeding) are permitted in this proceeding until the commencement of the Sunshine Agenda period. The Sunshine Agenda period terminates when a final order is released and the final order is issued. Written *ex parte* contacts and memoranda summarizing oral *ex parte* contacts must be filed on the day of the presentation with the Secretary and Commission employees receiving each presentation. For other requirements, see generally Section 1.1200 *et seq.* of the Commission's Rules, 47 C.F.R. §§ 1.1200 *et seq.*

**V. ORDERING CLAUSES**

26. **IT IS ORDERED** that, pursuant to Sections 4(i), 201(b), 202(a), 204, and 205 of the Communications Act, 47 U.S.C. §§ 154(i), 201(b), 202(a), 204, and 205, the issues set forth in this Order **ARE DESIGNATED FOR INVESTIGATION**.

27. Accordingly, **IT IS ORDERED** that, the Common Carrier Bureau **SHALL INVESTIGATE** whether SWBT's promotion denies customers the benefits of efficient competition in violation of section 201(b) of the Communications Act of 1934.

28. **IT IS FURTHER ORDERED** that, the Common Carrier Bureau **SHALL INVESTIGATE** whether Transmittal 2622 violates section 202(a)'s prohibition against unjust and unreasonable discrimination.

29. **IT IS FURTHER ORDERED** that SWBT **SHALL PROVIDE** the information requested in Section III(B)(a) above, in the format set out in Appendices A and B hereto.

30. **IT IS FURTHER ORDERED** that SWBT **SHALL FILE** a direct case addressing each issue designated above no later than 15 days after the release of this Order.

31. **IT IS FURTHER ORDERED** that Pleadings responding to SWBT's direct case **SHALL BE FILED** no later than 7 days after filing the direct case and must be captioned "Opposition to Direct Case" or "Comments on SWBT's Direct Case."

32. **IT IS FURTHER ORDERED** that SWBT may file a "Rebuttal" to oppositions or comments no later than 7 days after the filing of comments on or oppositions to the direct cases.

FEDERAL COMMUNICATIONS COMMISSION

A handwritten signature in black ink, appearing to read "A. Richard Metzger" followed by a stylized flourish.

A. Richard Metzger  
Deputy Chief, Common Carrier Bureau

## **Appendix A**

### **Instructions for Completing Tariff Review Plan Charts**

1. Southwestern Bell Telephone Company (SWBT) must complete tariff review plan (TRP) charts for each three- and five-year high capacity term pricing plan (HCTPP) service that it offers. Sample TRP charts are set forth in Appendix B. SWBT must submit these charts both in hard copy and on a computer disk in Lotus 1-2-3 format in accordance with the instructions set forth below. SWBT may obtain a computer disk containing these charts in Lotus 1-2-3 format by contacting Carol Canteen of the Competitive Pricing Division at (202) 418-1540.

#### **Chart I in Appendix B**

2. SWBT must submit on chart I, labeled "Investment," investment data separately for each three- and five-year HCTPP service that it offers. Sample TRP investment charts are set forth in Appendix B. SWBT must complete the investment charts for each service using the format illustrated on these sample charts.

3. In the space provided at the top of chart I, SWBT must identify, by name, the particular HCTPP service for which the required investment data are displayed.

4. In column A on chart I, SWBT must first identify separately, by name, each recurring rate element and each nonrecurring rate element associated with any investment item required to provide the HCTPP service listed at the top of the chart.<sup>1</sup> SWBT must then identify separately, by name, each investment item required to provide the rate element in column A on chart I. SWBT must list these separate investment items immediately below the particular recurring or nonrecurring rate element for which a rate recovers the direct costs associated with these items.<sup>2</sup> The main distribution frame, optical line terminating multiplexer unit, smart jack, regenerators, DSX-1 or DSX-3 cross-connect panels, 3/1 multiplexer, coaxial cable, fiber optic cable, copper wire, poles, conduit, cable rack, land, and building are examples of investment items that SWBT must identify separately on its own row, by name, in column A on chart I. When SWBT develops a nonrecurring rate that

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<sup>1</sup> Space is provided in column A on chart I to list the names of as many as three recurring and three nonrecurring rate elements for each service. If the costs for a service are associated with more than three recurring rate elements or more than three nonrecurring rate elements, then SWBT must modify chart I by adding additional rows and must list the names of additional rate elements on these additional rows.

<sup>2</sup> For each service, space is provided in column A on chart I to list the names of as many as five investment items under each recurring and each nonrecurring rate element. If more than five investment items are associated with a single recurring or nonrecurring rate element, then SWBT must modify chart I by adding additional rows below the rate element associated with the additional investment items and must list the names of the additional investment items on these additional rows.

recovers the entire capital outlay for HCTPP assets up front, SWBT must treat these assets as investment items for purposes of completing this chart.

5. In Column B on chart I, SWBT must indicate the unit investment amount associated with each investment item identified in column A on chart I. Unit investment is exclusive of any loadings for installation and engineering.

6. In column C on chart I, SWBT must indicate the number of hours required to install each investment item identified in column A on chart I.

7. In column D on chart I, SWBT must indicate the direct installation cost per hour, exclusive of any overhead loading, that is incurred to install each investment item identified in column A on chart I.

8. In column E on chart I, SWBT must indicate the number of engineering hours required to make operational each investment item identified in column A on chart I.

9. In column F on chart I, SWBT must indicate the direct engineering cost per hour, exclusive of any overhead loading, that is incurred to make operational each investment item identified in column A on chart I.

10. In column G on chart I, SWBT must indicate the installed unit investment amount. SWBT must calculate this amount by adding: (1) the number in column B on chart I; (2) the number obtained by multiplying the number in column C on chart I by the number in column D on chart I; and (3) the number obtained by multiplying the number in column E on chart I by the number in column F on chart I.<sup>3</sup>

11. In column H on chart I, SWBT must indicate the unit capacity for each investment item identified in column A on chart I. For example, if a DSX-1 cross-connect panel that has a capacity of 56 DS1s is an investment item that the SWBT identifies in column A on chart I, SWBT must enter for this investment item the number 56 in column H on chart I.

12. In column I on chart I, SWBT must indicate the fill factor, which is the percentage rate of utilization, used to develop unit capacity investment for each investment item identified in column A on chart I.

13. In column J on chart I, SWBT must indicate the unit capacity investment amount for each investment item identified in column A on chart I. SWBT must calculate this amount by: (1) dividing the number in column B on chart I by the number in column H

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<sup>3</sup> If this installed unit investment amount includes loadings other than for installation and engineering. SWBT must modify this chart by adding columns between column F and column G, and must display the dollar amount of these other loadings in these additional columns.

on chart I; and (2) dividing the result of the division in (1) by the number in column I on chart I.

14. On rows 7, 15, 23, 31, 39, and 47 in column J on chart I, SWBT must indicate separately the total unit capacity investment amount for each rate element identified in column A on chart I. SWBT must calculate this amount by adding the unit capacity investment amounts in column J on chart I for the investment items identified under each rate element in column A on chart I.

15. In column K on chart I, SWBT must indicate the installation investment amount per unit for each investment item identified in column A on chart I. SWBT must calculate this amount by: (1) multiplying the number in column C on chart I by the number in column D on chart I; (2) dividing the result of the multiplication in (1) by the number in column H on chart I; and (3) dividing the result of the division in (2) by the number in column I on chart I.

16. On rows 7, 15, 23, 31, 39, and 47 in column K on chart I, SWBT must indicate separately the total installation per unit amount for each rate element identified in column A on chart I. SWBT must calculate this amount by adding the installation per unit amounts in column K on chart I for the investment items identified under each rate element in column A on chart I.

17. In column L on chart I, SWBT must indicate the engineering investment amount per unit for each investment item identified in column A on chart I. SWBT must calculate this amount by: (1) multiplying the number in column E on chart I by the number in column F on chart I; (2) dividing the result of the multiplication in (1) by the number in column H on chart I; and (3) dividing the result of the division in (2) by the number in column I on chart I.

18. On rows 7, 15, 23, 31, 39, and 47 in column L on chart I, SWBT must indicate separately the total engineering per unit amount for each rate element identified in column A on chart I. SWBT must calculate this amount by adding the engineering per unit amounts in column L on chart I for the investment items identified under each rate element in column A on chart I.

19. In column M on chart I, SWBT must indicate the installed unit capacity investment amount for each investment item identified in column A on chart I. SWBT must calculate this number by: (1) dividing the number in column G on chart I by the number in column H on chart I; and (2) dividing the result of the division in (1) by the number in column I on chart I.

20. On rows 7, 15, 23, 31, 39, and 47 in column M on chart I, SWBT must indicate separately the total installed unit capacity investment amount for each rate element identified in column A on chart I. SWBT must calculate this amount by adding the installed



unit capacity investment amounts in column M on chart I for the investment items identified under each rate element in column A on chart I.

21. In column N on chart I, SWBT must indicate the number of investment items required to provide one unit of service for each investment item identified in column A on chart III. For example, if a DSX-1 cross-connect panel is an investment item that is identified in column A on chart I, and one DSX-1 cross-connect panel is required to provide one DS1, SWBT must enter the number 1 in column N on chart I for this item.

22. In column O on chart I, SWBT must indicate the total installed unit capacity investment amount for each investment item identified in column A on chart I. SWBT must calculate this amount by multiplying the number in column M on chart I by the number in column N on chart I.

23. On rows 7, 15, 23, 31, 39, and 47 in column O on chart I, SWBT must indicate the aggregate of the total installed unit capacity investment amount separately for each rate element identified in column A on chart I. SWBT must calculate this amount by adding the total installed unit capacity investment amounts in column O on chart I for the investment items identified under each rate element in column A on chart I.

#### **Chart II in Appendix B**

24. SWBT must submit on chart II, labeled "Direct Costs," direct cost data separately for each three- and five-year HCTPP service that it offers. Sample TRP direct cost charts are set forth in Appendix B. SWBT must complete the direct cost charts for each service using the format illustrated on these sample charts.

25. In the space provided at the top of chart II, SWBT must identify, by name, the particular HCTPP service for which the required direct cost data are displayed.

26. In column A on chart II, SWBT must provide, for each HCTPP service identified at the top of chart II, the same information that it must provide in column A on chart I for the same service.<sup>4</sup>

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<sup>4</sup> See para.4 *supra*.

27. In column P on chart II, SWBT must indicate the annual depreciation direct cost factor<sup>5</sup> for each investment item identified below each recurring rate element in column A on chart II.<sup>6</sup>

28. In column Q on chart II, SWBT must indicate the annual direct cost of money factor for each investment item identified below each recurring rate element in column A on chart II.

29. In column R on chart II, SWBT must indicate the annual federal income tax direct cost factor for each investment item identified below each recurring rate element in column A on chart II.

30. In column S on chart II, SWBT must indicate the annual state and local income tax direct cost factor for each investment item identified below each recurring rate element in column A on chart II.

31. In column T on chart II, SWBT must indicate the annual tax direct cost factor for taxes other than federal and state income taxes for each investment item identified below each recurring rate element in column A on chart II.

32. In column U on chart II, SWBT must indicate the annual maintenance direct cost factor for each investment item identified below each recurring rate element in column A on chart II.

33. In column V on chart II, SWBT must indicate the annual administrative direct cost factor for each investment item identified below each recurring rate element in column A on chart II.

34. In column W on chart II, SWBT must indicate the annual direct cost factor it uses to develop direct costs other than those for which annual direct cost factors are identified in columns P through V on chart II for each investment item identified below each recurring rate element in column A on chart II.

35. In column X on chart II, SWBT must indicate the direct annual unit depreciation expense associated with each investment item identified below each recurring

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<sup>5</sup> We use the acronym ACF to represent annual direct cost factor on the TRP charts.

<sup>6</sup> Annual direct cost factors apply to the development of recurring rates and generally do not apply to the development of nonrecurring rates. An annual direct cost factor is the ratio of the annual recurring direct cost for a particular cost category (*e.g.*, maintenance) to the investment amount for a particular asset (*e.g.*, a DSX panel) or asset category (*e.g.*, digital circuit equipment). The annual direct cost factor for a particular cost category multiplied by the investment amount for a particular asset yields the annual recurring direct cost for the particular cost category relative to the particular asset. Recurring direct costs are generally recovered by recurring rates and are not generally recovered by nonrecurring rates.

rate element in column A on chart II. SWBT must calculate this depreciation expense by multiplying the annual depreciation direct cost factor in column P on chart II for each investment item identified below each recurring rate in column A on chart II by the corresponding total installed unit capacity investment amount in column O on chart I.

36. On rows 7, 15, and 23 in column X on chart II, SWBT must indicate the total direct annual unit depreciation expense separately for each recurring rate element identified in column A on chart II. SWBT must calculate this amount by adding the annual unit depreciation expenses in column X on chart II for the investment items identified under each recurring rate element in column A on chart II.

37. In column Y on chart II, SWBT must indicate the direct annual dollar cost of money per unit associated with each investment item identified below each recurring rate element in column A on chart II. SWBT must calculate this dollar cost of money by multiplying the annual direct dollar cost of money factor in column Q on chart II for each investment item identified below each recurring rate element in column A on chart II by the corresponding total installed unit capacity investment amount in column O on chart I.

38. On rows 7, 15, and 23 in column Y on chart II, SWBT must indicate the total direct annual dollar cost of money per unit separately for each recurring rate element identified in column A on chart II. SWBT must calculate this amount by adding the direct annual dollar costs of money per unit in column Y on chart II for the investment items identified under each recurring rate element in column A on chart II.

39. In column Z on chart II, SWBT must indicate the direct annual unit federal income tax expense associated with each investment item identified below each recurring rate element in column A on chart IV. SWBT must calculate this federal income tax expense by multiplying the annual federal income tax direct cost factor in column R on chart II for each investment item identified below each recurring rate element in column A on chart II by the corresponding total installed unit capacity investment amount in column O on chart I.

40. On rows 7, 15, and 23 in column Z on chart II, SWBT must indicate separately the total direct annual unit federal income tax expense for each recurring rate element identified in column A on chart II. SWBT must calculate this amount by adding the direct annual unit federal income tax expenses in column Z on chart II for the investment items identified under each recurring rate element in column A on chart II.

41. In column AA on chart II, SWBT must indicate the direct annual unit state and local income tax expense associated with each investment item identified below each recurring rate element in column A on chart II. SWBT must calculate this federal income tax expense by multiplying the annual state and local income tax direct cost factor in column S on chart II for each investment item identified below each recurring rate element in column A on chart II by the corresponding total installed unit capacity investment amount in column O on chart I.

42. On rows 7, 15, and 23 in column AA on chart II, SWBT must indicate separately the total direct annual unit state and local income tax expense for each recurring rate element identified in column A on chart II. SWBT must calculate this amount by adding the direct annual unit state and local income tax expenses in column AA on chart II for the investment items identified under each recurring rate element in column A on chart II.

43. In column BB on chart II, SWBT must indicate the direct annual unit other tax expense associated with each investment item identified below each recurring rate element in column A on chart II. SWBT must calculate this other tax expense by multiplying the annual other tax direct cost factor in column T on chart II for each investment item identified below each recurring rate element in column A on chart II by the corresponding total installed unit capacity investment amount in column O on chart I.

44. On rows 7, 15, and 23 in column BB on chart II, SWBT must indicate the total direct annual unit other tax expense separately for each recurring rate element identified in column A on chart II. LECs must calculate this amount by summing the direct annual unit other tax expenses in column BB on chart II for the investment items identified under each recurring rate element in column A on chart II.

45. In column CC on chart II, SWBT must indicate the direct annual unit maintenance expense associated with each investment item identified below each recurring rate element in column A on chart II. LECs must calculate this maintenance expense by multiplying the annual maintenance direct cost factor in column U on chart II for each investment item identified below each recurring rate element in column A on chart II by the corresponding total installed unit capacity investment amount in column O on chart I.

46. On rows 7, 15, and 23 in column CC on chart II, SWBT must indicate separately the total direct annual unit maintenance expense for each recurring rate element identified in column A on chart II. SWBT must calculate this amount by adding the direct annual unit maintenance expenses in column CC on chart II for the investment items identified under each recurring rate element in column A on chart II.

47. In column DD on chart II, SWBT must indicate the direct annual unit administrative expense associated with each investment item identified below each recurring rate element in column A on chart II. SWBT must calculate this administrative expense by multiplying the annual administrative direct cost factor in column V on chart II for each investment item identified below each recurring rate element in column A on chart II by the corresponding total installed unit capacity investment amount in column O on chart I.

48. On rows 7, 15, and 23 in column DD on chart II, SWBT must indicate separately the total direct annual unit administrative expense for each recurring rate element identified in column A on chart II. SWBT must calculate this amount by adding the direct annual unit administrative expenses in column DD on chart II for the investment items identified under each recurring rate element in column A on chart II.

49. In column EE on chart II, SWBT must indicate the direct annual unit other expense associated with each investment item identified below each recurring rate element in column A on chart II. SWBT must calculate this other expense by multiplying the annual other direct cost factor in column W on chart II for each investment item identified in column A on chart II by the corresponding total installed unit capacity investment amount in column O on chart I.

50. On rows 7, 15, and 23 in column EE on chart II, SWBT must indicate separately the total direct annual unit other expense for each recurring rate element identified in column A on chart II. SWBT must calculate this amount by adding the direct annual unit other expenses in column EE on chart II for the investment items identified under each recurring rate element in column A on chart II.

### **Chart III in Appendix B**

51. SWBT must submit on chart III, labeled "Rates," rate data separately for each three- and five-year HCTPP service that it offers. Sample TRP rate charts are set forth in Appendix B. SWBT must complete the rate charts for each service using the format illustrated on these sample charts.

52. In the space provided at the top of chart III, SWBT must identify, by name, the particular HCTPP service for which the required rate data are displayed.

53. In column A on chart III, SWBT must provide, for each HCTPP service identified at the top of chart III, the same information that it must provide in column A on charts I and II for the same service.<sup>7</sup>

54. In column FF on chart III, SWBT must indicate the total annual recurring direct unit cost associated with each investment item identified below each recurring rate element in column A on chart III. SWBT must calculate this direct cost by adding the annual recurring direct unit expenses in columns X, Y, Z, AA, BB, CC, DD, and EE on chart II for each investment item identified below each recurring rate element in column A on chart III.

55. On rows 7, 15, and 23 in column FF on chart III, SWBT must indicate separately the total annual recurring direct unit cost for each recurring rate element identified in column A on chart III. SWBT must calculate this amount by adding the total annual recurring direct unit costs in column FF on chart III for the investment items identified under each recurring rate element in column A on chart III.

56. In column GG on chart III, SWBT must indicate the total monthly recurring direct unit cost associated with each investment item identified below each recurring rate

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*See para. 4 supra.*

element in column A on chart III. SWBT must calculate this direct cost by dividing 12 into the total annual recurring direct unit cost in column FF on chart III for each investment item identified below each recurring rate element in column A on chart III.

57. On rows 7, 15, and 23 in column GG on chart III, SWBT must indicate separately the total monthly recurring direct unit cost for each recurring rate element identified in column A on chart III. SWBT must calculate this amount by adding the total monthly recurring direct unit costs in column GG on chart III for the investment items identified under each recurring rate element in column A on chart III.

58. In column HH on chart III, SWBT must indicate the allocated amount of the monthly recurring rate per unit that recovers the total monthly recurring direct unit cost associated with each investment item identified below each recurring rate element in column A on chart III. SWBT must calculate this allocated amount by multiplying the total annual recurring direct unit cost in column FF on chart III associated with each investment item identified below each recurring rate element in column A on chart III by the corresponding overhead loading factor reflected in the rate that recovers this direct unit cost.

59. On rows 7, 15, and 23 in column HH on chart III, SWBT must indicate separately the total monthly recurring rate per unit for each recurring rate element identified in column A on chart III. This rate must equal the dollar amount obtained by adding the allocated amounts of the monthly recurring rate per unit in column HH on chart III for the investment items identified under each recurring rate element in column A on chart III.

60. In column II on chart III, SWBT must indicate the total nonrecurring direct unit cost that is associated with each investment item identified below each nonrecurring rate element in column A on chart III. The total nonrecurring direct unit cost is the amount that is indicated in column O on chart I for each investment item identified below each nonrecurring rate element in column A on chart III.

61. On rows 31, 39, and 47 in column II on chart III, SWBT must indicate separately the total nonrecurring direct unit cost for each nonrecurring rate element identified in column A on chart III. This total is the sum of the total nonrecurring direct unit costs in column II on chart III for the investment items identified under each nonrecurring rate element in column A on chart III.

62. In column JJ on chart III, SWBT must indicate the allocated amount of the nonrecurring rate per unit that recovers the total nonrecurring direct unit cost associated with either each investment item identified below each nonrecurring rate element in column A on chart III. SWBT must calculate this allocated amount by multiplying each of these total nonrecurring direct unit costs in column II on chart III by the corresponding overhead loading factor reflected in the rate that recovers these total nonrecurring direct unit costs.

63. On rows 31, 39, and 47 in column JJ on chart III, SWBT must indicate separately the nonrecurring rate per unit for each nonrecurring rate element identified in column A on chart III. This rate must equal the dollar amount obtained by adding the allocated amounts of the nonrecurring rate per unit in column JJ on chart III associated with the investment items identified under each nonrecurring rate element in column A on chart III.

## **APPENDIX B**

### **TARIFF REVIEW PLAN FOR SOUTHWESTERN BELL TELEPHONE COMPANY'S THREE- AND FIVE- YEAR HIGH CAPACITY TERM PRICING PLAN SERVICES**



# I. Investment

## Name of Service

	A	B	C	D	E	F	G	H
	Rate Elements/Investment Items	Unit Investment	Installation Hours	Installation Direct Cost Per Hour	Engineering Hours	Engineering Direct Cost Per Hour	Installed Unit Investment (B + (C*D) + (E*F))	Unit Capacity
1	<b>Recurring Rate Element 1</b>							
2	Item A							
3	Item B							
4	Item C							
5	Item D							
6	Item E							
7	<b>Total</b>	--	--	--	--	--	--	--
8								
9	<b>Recurring Rate Element 2</b>							
10	Item A							
11	Item B							
12	Item C							
13	Item D							
14	Item E							
15	<b>Total</b>	--	--	--	--	--	--	--
16								
17	<b>Recurring Rate Element 3</b>							
18	Item A							
19	Item B							
20	Item C							
21	Item D							
22	Item E							
23	<b>Total</b>	--	--	--	--	--	--	--
24								
25	<b>Nonrecurring Rate Element 1</b>							
26	Item A							
27	Item B							
28	Item C							
29	Item D							
30	Item E							
31	<b>Total</b>	--	--	--	--	--	--	--
32								
33	<b>Nonrecurring Rate Element 2</b>							
34	Item A							
35	Item B							
36	Item C							
37	Item D							
38	Item E							
39	<b>Total</b>	--	--	--	--	--	--	--
40								
41	<b>Nonrecurring Rate Element 3</b>							
42	Item A							
43	Item B							
44	Item C							
45	Item D							
46	Item E							
47	<b>Total</b>	--	--	--	--	--	--	--